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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,993	11/26/2003	Hiroaki Yamamoto	FUJH 20.767 (100794-00516)	7993
26304	7590	08/23/2005	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585			LEE, CHUN KUAN	
			ART UNIT	PAPER NUMBER
			2182	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/723,993

Applicant(s)

YAMAMOTO ET AL.

Examiner

Chun-Kuan (Mike) Lee

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/26/2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 2002-344424.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/26/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 3 and 5-6 recite the limitation "control methods", "the control method" and "a control method" in page 28, line 26;  
page 29, lines 19-20, 23 and  
claim 4 recites the limitation "said conversion table" in page 29, line 8.  
There is insufficient antecedent basis for this limitation in the claim.
2. Claims 3-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. As per claim 3, regarding the use of the term "in which are", the examiner was able to interpret the first use of "in which are" (page 28, line 25), but is uncertain regarding the second use of "in which are" (page 39, line 1), specifically the context of exactly what "are stored".
4. As per claims 3 and 5-6, it appears unclear whether the applicant is referring to the same or different "control method".
5. As per claim 4, it is unclear as to which "conversion table" the applicant is referring to.

Art Unit: 2182

6. As per claim 5, it appears unclear whether or not the "packet existence information" (page 29, line 17) is the same as "packet existence notification" in the specification (page 18, line 19).
7. Claim 7 is rejected due to dependency on claim 3.
8. Claim 8 is rejected due to dependency on claim 5.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto (US Patent Pub 2002/0097733) further in view of Szurkowski et al. (US Patent 6,421,350).
  10. As per claim 1, Yamamoto teaches packet transmitting apparatus comprising of a buffer memory management system method in a packet transmission/reception device

Art Unit: 2182

for storing received packets in a buffer memory (page 3, [0039]) and controlling reading (page 7, [0105]-[0107]) and writing (Figure 7) of packets to and from said buffer memory, the system method comprising the steps of:

modifying allocated areas for each service class in said buffer memory storing received packets according to the number of said service classes setting (page 3, [0043] and page 4, [0045]).

Yamamoto fails to specifically teach said system method further comprise the steps of setting in units of the service class included in a header portion of a receiver packet, a control method for the received packet.

Szurkowski teaches setting a control method for a received packet, wherein said control method comprise of error insertion, packet loss and packet delay (column 1, lines 27-65; column 5, lines 41-67 and column 6, lines 1-33).

It would have been obvious to one of ordinary skill in this art, at the time of invention was made to implement the control methods for Szurkowski's packet into Yamamoto's buffer memory management system method. Doing so add and expand flexibility to Yamamoto's buffer memory management system method, such as providing and maintaining a consistent quality of service independent of network loading (Szurkowski, column 4, lines 8-58).

11. As per claim 2, please see claim 1 in view of Yamamoto and Szurkowski. Yamamoto further teaches said service classes are classified by an IP address or received port number (page 5, [0075]).

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chun-Kuan (Mike) Lee whose telephone number is (571) 272-0671 and email is chun-kuan.lee@uspto.gov. The examiner can normally be reached on 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Popovici Dov can be reached on (571)272-4083. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2100.

Mailed responses to this action should be sent to:

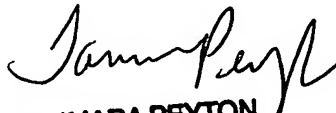
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Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:

(571) 273-8300

Hand-delivered responses should be brought to:

USTPO, Randolph Building, Customer Service Window  
401 Dulany Street  
Alexandria, VA 22314

  
**TAMMARA PEYTON**  
PRIMARY EXAMINER

C.K.L.  
08/19/2005